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Attorneys for Respondents

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

QIN CHEN,

Petitioner,

v.

MICHAEL CHERTOFF, Secretary  
of Department of Homeland Security;  
EMILIO T. GONZALEZ, Director of the  
U.S. Citizenship and Immigration Services;  
CHRISTINA POULOS, Acting Director of  
USCIS, California Service Center; and  
ROBERT S. MULLER, Director  
of Federal Bureau of Investigation,

Respondents.

No. C 07-2188-WDB

**STIPULATION TO CONTINUE CASE  
MANAGEMENT CONFERENCE; AND  
[PROPOSED] ORDER**

The petitioner, currently proceeding *pro se*, and respondents, by and through their attorneys of record, hereby stipulate, subject to approval of the Court, to extend the date of the further case management conference in this case from February 26, 2008, to March 17, 2008, in light of the following:

(1) On April 20, 2007, the petitioner filed this mandamus action, seeking an order compelling the United States Citizenship and Immigration Services (USCIS) to adjudicate her I-485 application to adjust her status to lawful permanent resident.

(2) The parties have filed cross-motions for summary judgment.

1 (3) On December 11, 2007, this Court issued an order: (a) stating that if this case is not  
2 rendered moot by agency action during the first few months of 2008, the Court denies the  
3 respondents' motion for summary judgment; (b) declining to rule on petitioner's motion for  
4 summary judgment; (c) inviting the parties to engage in discovery on the issue of whether  
5 petitioner is in a group that is eligible for a visa now; (d) informing the petitioner that she may file  
6 a motion for summary judgment on this issue at any time before February 11, 2008, if she has  
7 developed sufficient evidence to support such a motion; (e) stating that if the petitioner has not  
8 filed a motion for summary judgment by February 11, 2008, and if USCIS has not by then made a  
9 decision on the I-485 application, then by February 19, 2008, the parties shall file a joint case  
10 management statement that apprises the Court of any relevant developments that have occurred  
11 between the date of the Court's order and now; (f) stating that if the petitioner's group is eligible  
12 for visas, or is about to become eligible for visas, it would issue a ruling on the pending motion for  
13 summary judgment; and (g) stating that if it is not clear whether petitioner's group is eligible for  
14 visas, then on February 26, 2008, the Court would conduct a case management conference.

15 (4) The petitioner has not propounded any discovery nor filed a motion for summary  
16 judgment.

17 (5) The respondents continue to maintain that the petitioner is in the Second Preference  
18 Category, for which visas are not currently available.

19 (6) The January Visa Bulletin states that the priority date for Second Preference Chinese  
20 applicants will be January 1, 2003 (the plaintiff's priority date is March 11, 2004)

21 (7) The February Visa Bulletin states that the priority date for Second Preference Chinese  
22 applicants will be December 1, 2003, an encouraging jump of 11 months.


23 (8) The parties believe it would be beneficial to wait to see where the priority date for Second  
24 Preference Chinese applicants will be according to the forthcoming March Visa Bulletin and,  
25 accordingly, ask this Court to delay ruling on the petitioner's motion for summary judgment and to  
26 re-schedule a case management conference from February 26, 2008, to March 17, 2008.

27 (9) The parties will file a joint case management statement at least seven days in advance of the  
28 new March 17, 2008 case management conference.

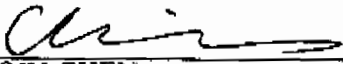
1  
2 Dated: February 19, 2008

Respectfully submitted,

3 JOSEPH R. RUSSONIELLO  
4 United States Attorney

5   
6 EDWARD A. OLSEN  
7 Assistant United States Attorney  
8 Attorneys for Respondents

9 Dated: February 19, 2008

10   
11 QIN CHEN  
12 Petitioner

13 **ORDER**

14 Pursuant to stipulation, IT IS SO ORDERED.

15 Date:

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17 WAYNE D. BRAZIL  
18 United States Magistrate Judge  
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